



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,318	02/13/2001	Eming Xia	P01849	9816

7590 08/27/2002

Robert B. Furr, Jr.
Law Department
Bausch & Lomb Incorporated
One Bausch & Lomb Place
Rochester, NY 14604

EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
1751	7

DATE MAILED: 08/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Offic Action Summary	Application N .	Applicant(s)
	09/782,318	SOLTYS-ROBITALLE ET AL.
	Examiner Eisa B Elhilo	Art Unit 1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 6/13/2002.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6</u>	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

- 1 This action is responsive to the amendment filed on June 13, 2002.
- 2 The copy of the information disclosure submitted by the applicants is acknowledged.
- 3 The rejection of claims 10-12 under 35 U.S.C. 112, 2nd paragraph, is withdrawn in view of applicant's amendment.
- 4 The rejection of claims 1-19 under 35 U.S.C. 103(a) as being unpatentable over Riedhammer et al. (US 4,820,352), is maintained for the reasons set forth in the previous office action in paper No. 3, dated 12/13/2001.

Response to Applicant's Arguments

- 5 Applicant's arguments filed 6/13/2002 have been fully considered but they are not persuasive.

With respect to the rejection based upon Riedhammer (US' 352), Applicant argues that Riedhammer's compositions have an osmolality less than 300 mOsm./Kg and the composition require a digital rubbing step to obtain cleaning. The applicant also argues that there is nothing in Riedhammer that discloses or suggests that you can obtain enhanced cleaning by increasing osmolality.

The examiner respectfully disagrees with the above argument because the reference teaches and discloses a cleaning composition for contact lenses comprising osmolyte agent such as sodium chloride that has a molecular weight within the claimed ranges (see col. 6, Examples I, II and III). Further, the reference teaches a method for cleaning contact lenses by contacting the lenses with a cleaning composition for a sufficient time period without any digital rubbing step (see col. 12, claim 13). Therefore, the person of ordinary skill in the art would expect such a

Art Unit: 1751

composition to have similar properties to those claimed and the composition can be applied with a method similar to the claimed method, absent unexpected results. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Art Unit: 1751

Elhilo



August 17, 2002



YOGENDRA N. GUPTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700